

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

ROB DELSMAN,

Plaintiff,

vs.

GENERAL ELECTRIC COMPANY,

Defendant.

Case No: C 09-2414 SBA

**ORDER DIRECTING PLAINTIFF  
TO FILE RESPONSE TO  
DEFENDANT'S MOTION TO  
DISMISS**

Dkt. 39

On October 28, 2011, Defendant General Electric Company filed a Motion to Dismiss Plaintiff's Complaint for Failure to Prosecute, or, Alternatively, to Stay Litigation. Dkt. 39. The motion is noticed for hearing on March 13, 2012. Under Local Rule 7-3, any opposition or statement of non-opposition was due no later than two weeks after the motion was filed. As such, Plaintiff's response was due by November 11, 2011. To date, however, no response to the motion has been filed.

"Pursuant to Federal Rule of Civil Procedure 41(b), the district court may dismiss an action for failure to comply with any order of the court." Ferdik v. Bonzelet 963 F.2d 1258, 1260 (9th Cir. 1992). As such, the failure to file an opposition to a motion to dismiss in the manner prescribed by the Court's Local Rules is grounds for dismissal. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam). Nevertheless, the Court will sua sponte afford Plaintiff an additional opportunity to file a response to Defendant's motion to dismiss. While the Court does not countenance Plaintiff's disregard of the Local Rules, the Court grants such extension in consideration of less drastic alternatives to dismissal. See Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002). Nonetheless, Plaintiff is warned that the failure to file an opposition by the deadline set by the Court will be deemed grounds for dismissing the action under Rule 41(b), without further notice. Accordingly,

1 IT IS HEREBY ORDERED THAT:

2 1. Plaintiff shall file his response to Defendant's motion to dismiss by no later  
3 than **February 16, 2012**. If Plaintiff does not intend to prosecute this action, he should file  
4 a stipulation for dismissal under Rule 41(b), a request for dismissal under Rule 41(a), or a  
5 statement of non-opposition, by that deadline. The failure timely comply with this Order  
6 will result in the dismissal of the action. If applicable, Defendant may file a reply by no  
7 later than **February 23, 2012**.

8 2. Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-  
9 1(b), the Court, in its discretion, may resolve the motion without oral argument, prior to the  
10 new hearing date. The parties are advised to check the Court's website to determine  
11 whether a court appearance is required.

12 IT IS SO ORDERED.

13 Dated: February 2, 2012

  
14 SAUNDRA BROWN ARMSTRONG  
15 United States District Judge  
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